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Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed

Memorialization processes*

Summary

The Special Rapporteur in the field of cultural rights, Farida Shaheed, submits the present report in accordance with Human Rights Council resolution 19/6.

In the report, the Special Rapporteur addresses memorialization processes of the events of the past in post-conflict and divided societies, with a specific focus on memorials and museums of history/memory.

States exiting conflicts or periods of repression are increasingly propelled to engage in active memorial policies as a means of ensuring recognition for the victims, as reparation for mass or grave violations of human rights and as a guarantee of non-recurrence. The Special Rapporteur stresses the significance of actions in the cultural field for achieving the overall societal goals of transitional justice, while noting that entire cultural and symbolic landscapes are designed through memorials and museums, which both reflect and shape, negatively or positively, social interactions and people's cognition of identities – their own as well as that of others.

Addressing some difficult challenges encountered in memorializing the past, the Special Rapporteur makes a number of recommendations grounded in the principle that memorialization should be understood as a process that provides to those affected by human rights violations the spaces necessary to articulate their narratives. Memorial practices should stimulate and promote civic engagement, critical thinking and discussion regarding the representation of the past, but equally the contemporary challenges of exclusion and violence.

* The annex to the present report is circulated in the language of submission only.

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I. Introduction

1. This report is the second of two consecutive studies by the Special Rapporteur on historical and memorial narratives in divided and post-conflict societies. The first report, dealing with the issue of the writing and teaching of history, with a particular focus on history textbooks was submitted to the General Assembly in 2013 (A/68/296) and sought to identify the circumstances in which historical narratives promoted by States in schools may become problematic from a human rights perspective. This second report addresses memorialization processes, with a specific focus on memorials and museums, and tackles the wider processes of collective memorialization undertaken by various actors, both governmental and non-governmental.

2. Cultural rights have an important role to play in transitional justice and reconciliation strategies: "To be successful, criminal and restorative justice must be integrated into a larger process", including in particular cultural rights[1] that can help to transform institutions and stimulate changes in both cultural practices and individual outlooks.[2] Collective reparations for mass or grave violations of human rights can take the form of legal but also non-legal measures, the latter entering the field of symbolism and memory, which is too often overlooked. The ways in which narratives are memorialized have consequences far beyond the sole issue of reparations. Entire cultural and symbolic landscapes are designed through memorials and museums reflecting, but also shaping negatively or positively, social interactions and people's self-identities, as well as their perception of other social groups. Sometimes, the past defines people rather than informs them.

3. The present report tries to elucidate the responsibilities of States and other stakeholders in the field of memorialization, in view of the fact that memory, like history, is never immune from political influence and debate. The rising trend of memorialization processes today makes discussing these issues both urgent and necessary.

4. In 2013, the Special Rapporteur convened two meetings on these issues. The first was held from 1 to 3 July 2013 in Derry/Londonderry, United Kingdom of Great Britain and Northern Ireland (see A/68/296, paragraph 8, and annex). A second expert meeting was organized on 7 and 8 October 2013 in Geneva, in cooperation with the research team PIMPA (Politics of Memory and Art Practices) of the Geneva University of Art and Design. On 5 July 2013, the Special Rapporteur convened open consultations in Geneva in order to offer an opportunity to States, national human rights institutions and non-governmental organizations to present their views. The Special Rapporteur thanks all participants for their valuable contributions.

II. Processes of memorialization: goals and challenges

5. For the purpose of this report, the Special Rapporteur refers to memorials, understood as physical representation or commemorative activities, located in public spaces, that concern specific events regardless of the period of occurrence (wars and

[1] Pierre Hazan, "Ten years after the birth of the International Criminal Court, the challenges of complementarity", *Politorbis* vol. 54, No. 2 (2012), page 9.

[2] Pablo de Greiff, "On making the invisible visible: the role of cultural interventions in transitional justice processes", in *Transitional Justice, Culture and Society: Beyond Outreach*, Clara Ramírez-Barat ed. (New York, Social Science Research Council, forthcoming, 2014).

conflicts, mass or grave human rights violations), or the persons involved (soldiers, combatants, victims, political leaders or activists for example).[3]

6. Memorial expressions are extremely diverse. Major forms include authentic sites (for example concentration camps, former torture and detention centres, sites of mass killings and graves and emblematic monuments of repressive regimes); symbolic sites (such as permanent or ephemeral constructed monuments carrying the names of victims, renamed streets, buildings or infrastructure, virtual memorials on the Internet and museums of history/memory); and activities (such as public apologies, reburials, walking tours, parades and temporary exhibits). In addition, although outside the scope of this report, various cultural expressions (artworks, films, documentaries, literature and sound and light shows addressing a tourist audience, etc.) also contribute to memorialization processes.

7. Memorials thus encompass all kinds of engagements specifically designed to remember the wrongs of the past. This allows for diversity in approaches, as constructed monuments do not always correspond to the wishes or culture of the communities concerned.

A. An evolution of expectations regarding memorialization

8. The purpose of memorials has changed dramatically over time. In ancient Greek city states, battlefield memorials were deliberately constructed of wood to enable erosion, opening possibilities for reconciliation between former enemies.[4]

9. With the passage of time, memorials have shifted from honouring soldiers dying in the line of duty to a victims' perspective and new visions of reconciliation. Starting in the 1980s, the creation of memorials has become linked to the idea that ensuring public recognition of past crimes is indispensable to the victims, essential for preventing further violence and necessary for redefining national unity. Memorialization is often a demand of victims and society at large[5] and the path to national reconciliation is seen to pass through not only legal reparations, but also symbolic reparations such as memorials.

10. The memorial injunction "Never again", born after the First World War, was framed in the late 1990s through the transitional justice paradigm, whereby the rule of law and promoting democratic cultures are societal guarantees to protect against further tragedies. With the recognition that civilians bear the main brunt of atrocities, memorialization has become a political and sociocultural imperative in reconciliation processes.

11. Contributing to the rise of memorialization was the emergence in the 1980s of the controversial concept of the "duty of remembrance"[6] of mass crimes, such as the destruction of European Jews by the Nazis, the slave trade and the violence perpetrated against indigenous peoples. This concept asserts the legitimacy of seeking reparation and drawing lessons even centuries after the actual events.

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[3] See Louis Bickford, "Memoryworks/memory works", in *Transitional Justice, Culture and Society: Beyond Outreach*, Clara Ramírez-Barat, ed. (New York, Social Science Research Council, forthcoming, 2014).

[4] Miguel. A. Marin Luna "The evolution and present status of the laws of war", *Recueil des Cours de l'Académie de Droit International*, vol. 92 (1957), p. 652.

[5] Simon Robins, "Challenging the therapeutic ethic: a victim-centred evaluation of the transitional justice process in Timor-Leste", *International Journal of Transitional Justice*, vol. 6, No. 1 (March 2012), pp. 83–105.

[6] Sarah Gensburger, Marie-Claire Lavabre, "Entre 'devoir de mémoire' et 'abus de mémoire': la sociologie de la mémoire comme tierce position", in *Histoire, Mémoire et Épistémologie. Autour de Paul Ricœur*, Bertrand Müller, ed. (Lausanne, Switzerland, Éditions Payot, 2004).

12. The understanding that memorialization should be a means of combating injustice and promoting reconciliation was expressed in the Durban Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in which States emphasized "that remembering the crimes or wrongs of the past, wherever and whenever they occurred, unequivocally condemning its racist tragedies and telling the truth about history are essential elements for international reconciliation and the creation of societies based on justice, equality and solidarity".

13. The goals assigned to memorialization processes are thus multi-faceted and, regardless of diversity in form and shape, memorials have both private/reflective and public/educative purposes.[7] They are geared not only towards the past (recalling events, recognizing and honouring victims and enabling stories to be related), but equally to the present (healing processes and rebuilding of trust between communities) and the future (preventing further violence through education and awareness-raising). Memorialization processes can promote a culture of democratic engagement by stimulating discussion regarding the representation of the past and contemporary challenges of exclusion and violence.

14. The multiplicity of memorial entrepreneurs means that memorialization may focus more on one goal rather than another, in some cases heightening or leading to tensions and mutual suspicion. Other goals may also be pursued, more or less openly, such as nation-building and constructing national identities, or, worryingly, as a tool to affirm predominance over a territory, gather people around one emphasized identity and justify various political agendas.

B. Critically assessing memorialization policies and practices

15. The question is whether memorials do and can fulfil the purposes assigned to them as described in paragraph 13 above and, if so, under which conditions?[8] In the last 20 years, more memorials and museums (of history/memory) were established than in the previous two centuries, suggesting the need to undertake a broader, more detailed analysis of the issue.

16. While memorialization processes mark the recognition of victims, the will to ensure reparation for mass or grave violations of human rights and non-recurrence, they can also amount to memorial tyrannies. This occurs when continuously multiplying memorials do not take into account alternative voices or suffer questions, enclose people within their past and leave little space for the remembrance of other events and relations between groups of people.[9]

17. On the whole, the worldwide trend of greater memorialization can be seen as positive. However, too much memory, especially if presented in the form of irreconcilable versions of the past, might hurt rather than help a society.[10] All post-conflict and divided societies confront the need to establish a delicate balance between forgetting and remembering. It is crucial that memorialization processes do not function as empty rhetoric commemorating the dead, while losing sight of the reasons and the context for past tragedies and obscuring contemporary challenges.

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[7] See Bickford, "Memoryworks/memory works".

[8] Ibid.

[9] See also the contribution from the National Council of Human Rights of Morocco, open consultations, 5 July 2013, available from http://www.ohchr.org/EN/Issues/CulturalRights/Pages/HistoricalMemorialNarratives.aspx.

[10] Bickford, "Memoryworks/memory works".

C. Political agendas in the battlefield of memory

18. The commemoration of tragic events, during or following conflict, including long afterwards, involving public art and the mobilization of collective memory, can convey messages of peace, recognition, reconciliation and community solidarity, but also in too many cases self-victimization, thirst for revenge and martyrdom. The political, educational and even aesthetics challenges are significant.

19. Memorials address issues that can be very divisive. States and other stakeholders must decide which particular narrative to promote (specific/exclusive or inclusive of plural narratives); at which point in time (immediately following events or after several generations) and for how long; where exactly (an authentic site, a public place visible to all on a daily basis or in a less central area requiring a proactive decision to pay a visit); and for which purpose and following which process (who should be consulted and on what exactly, who funds the project, how much autonomy should designers enjoy). Such issues may be particularly controversial in societies which have seen international or internal conflicts; post-colonial societies, including those which have experienced slavery; societies challenged by divisions based on ethnic, national or linguistic backgrounds, religion or political ideology; and societies in which indigenous peoples, minorities or other groups have been excluded from the memorialization processes.

20. These matters can only be decided on a case-by-case basis. From a human rights perspective, what counts is creating conditions that allow a "broadly located, mobile, multi-layered and interactive dialogical truth"[11] to emerge, meaning a debate on past events and actions that enables society to overcome "completely separate and unrecognized accounts of what happened"[12] so as to move forward and develop more peaceful relationships. Narratives, whether historical or memorial, are always a viewpoint and communities are never monolithic blocs. The central issue is how to ensure that people hear the story of others and learn to recognize their common humanity.

21. In memorialization processes, some actors may use the battlefield of memory to further their own agendas, imposing definitions of perpetrators and heroes and establishing categories of victims. This often leaves some victims in the shadow; it can create victim hierarchies, carries the risk of generating a competition in victimhood and may also provide some contemporary groups with "an endless line of credit".[13]

22. Memorials may be deployed to mobilize against the enemies of today and of the future, for example nationalist propaganda that manipulates symbols and revitalizes emotions from the past in which "memories of humiliation inspire the desire for revenge and are used to justify further aggression based on any historical or ancestral right."[14] Examples of such political manipulation around memorialization abound. In many regions, memory has become an intense battlefield, with opposing sides investing heavily in memorialization to justify their moral, legal and ideological superiority.

23. Memorials may also serve as places of pride and celebration of past crimes for radical groups. This can be the case, for example, of burial sites of war criminals, in particular when no reference, explanation or historical perspective is provided in relation to the crimes committed, through a plaque or nearby museum. Such cemeteries become further politicized by visits of high-ranking governmental officials.

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[11] Albie Sachs, *The Soft Vengeance of a Freedom Fighter*, (Berkeley, California, University of California Press, 2000).

[12] Ibid.

[13] Tzvetan Todorov, *Les abus de la mémoire*, (Paris, Arléa, 2004) pp. 56 and 57.

[14] Emmanuel Kattan, *Penser le devoir de mémoire*, (Paris, Presses Universitaires de France, 2002).

24. Positive initiatives exist, however, such as Chancellor Willy Brandt kneeling at the monument to the Warsaw Ghetto in 1970, or President Nelson Mandela visiting the Voortrekker Monument in Pretoria – often seen as embodying the policy of apartheid – in 2002. Integrated into a broader political strategy, memorialization can help to transform political realities, catalysing needed social debate on past crimes or events.

III. A normative framework: the emergence of memorialization standards

25. The increasing trend in memorialization became institutionalized between 1997 and 2005, involving many actors in different forums and propelling States exiting conflicts or periods of repression to engage in active memorial policies, using increasingly similar modalities. Western memorial models commemorating the victims of Nazism, while not always the most adequate or appropriate, have become a template or at least a political and aesthetic inspiration for the representation of past tragedies or mass crimes.

26. Alongside official, usually top-down, memorials are initiatives driven from below by artists, political groups or communities determined to publicly recall the memory of victims overlooked or denied by State policies. For example, this bottom-up trend led to the creation of the International Coalition of Sites of Conscience in 1999. There are countless grassroots and civil society memorial initiatives on all continents that may complement, react to, or even directly oppose representations of official historiography.

A. The Joinet-Orentlicher and the Van Boven-Bassiouni Principles

27. At the international level, two sets of basic principles have been developed in the area of reparations and the fight against impunity, which must be taken into consideration.

28. First, Louis Joinet, the former Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, listed a Set of Principles for the protection and promotion of human rights through actions to combat impunity, focused on four pillars of transitional justice: the rights to know, to justice and to reparation and guarantees of non-recurrence (E/CN.4/Sub.2/1997/20/Rev.1). The right to know is defined not only as the right of individual victims or close relatives to know what happened (the right to truth), but also as a "collective right, drawing upon history to prevent violations from recurring in the future" (Ibid., para. 17). According to Principle No. 2, "A people's knowledge of the history of its oppression is part of its heritage and, as such, must be preserved by appropriate measures in fulfilment of the State's duty to remember. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments."

29. Mr. Joinet affirmed the need for actions based on memorialization: "On a collective basis, symbolic measures intended to provide moral reparation, such as formal public recognition by the State of its responsibility, or official declarations aimed at restoring victims' dignity, commemorative ceremonies, naming of public thoroughfares or the erection of monuments, help to discharge the duty of remembrance" (Ibid., para. 42). Mr. Joinet's Set of Principles was expanded upon by Diane Orentlicher, the independent expert appointed to update the Set of Principles, to become the Updated Set of Principles for the protection and promotion of human rights through action to combat impunity, with similar elements on the duty to preserve memory (E/CN.4/2005/102 and Add.1).

30. Principles developed in other reports by the Special Rapporteur of the Sub-Commission, Theo van Boven (E/CN.4/1997/104), and the Special Rapporteur of the

Commission on Human Rights, Cherif Bassiouni (E/CN.4/2000/62), formed the basis for the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in resolution 60/147.

31. In that resolution, the General Assembly reiterated that memorial processes are part of the broader issue of reparations and recognized that satisfaction should include, where applicable and amongst other important elements such as verification of the facts and full and public disclosure of the truth, an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; a public apology, including acknowledgement of the facts and acceptance of responsibility; commemorations and tributes to the victims and inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

32. United Nations mechanisms have not yet undertaken a global study to examine memorial practices in the light of these principles. However, some United Nations reports relating to specific country contexts usefully draw attention to this subject. For example, the mapping report of 2010 on human rights abuses committed between 1993 and 2003 in the Democratic Republic of the Congo forcefully stresses the need to preserve the memory of the violations and, examining concrete examples, points out the danger of memorialization inciting revenge.[15] Similarly, the report of the Working Group on Enforced or Involuntary Disappearances on its mission to Bosnia and Herzegovina concluded that the issue of memorials had caused much controversy and unhappiness in the country (A/HRC/16/48/Add.1, para. 48). The Working Group also carefully considered the implementation of the recommendations of the Equity and Reconciliation Commission of Morocco regarding community reparations, including the conversion of former detention centres into memorials (A/HRC/13/31/Add.1, paras. 56-66).

B. Diplomatic conferences

33. Major conferences on the Holocaust in the 1990s and 2000s in London, Washington, D.C. and Stockholm contributed to firmly establishing symbolic reparation as an integral part of the international agenda. Participants shared a commitment to commemorate the victims, to honour those who stood against the Holocaust and to encourage appropriate forms of Holocaust remembrance in their countries.[16]

34. The gap in memorialization regarding slave trades and colonization was addressed at the World Conference against Racism, Racial Discrimination Xenophobia and Related Intolerance in 2001. In the Durban Declaration, States acknowledged and profoundly regretted the massive human suffering and the plight of millions of men, women and children caused by slavery, the slave trade, including the transatlantic slave trade, apartheid, genocide and colonialism. They called upon the States concerned to honour the memories of the victims of past tragedies. Noting that some had taken steps expressing regret, remorse or apologies, they called on all those who had not yet contributed to restoring the dignity of the victims to find appropriate ways to do so. The deliberations were particularly stormy, as some Western countries feared that an obligation to express repentance would lead to claims for financial compensation.

[15] See http://www.ohchr.org/Documents/Countries/ZR/DRC_MAPPING_REPORT_FINAL_EN.pdf, paras. 1006–1115 in particular.

[16] Declaration of the Stockholm International Forum on the Holocaust, para. 6.

35. Memorialization is now part of the international agenda, as is also evident in international days recalling past wrongs. One still has to enquire, however, how effective those international days are and whether they have a powerful societal resonance in those States and societies that celebrate such commemorative days.

C. Rulings of the Inter-American Court of Human Rights

36. The trend of memorialization has influenced judicial processes, especially in Latin America, with the Inter-American Court of Human Rights ordering the construction of public memorials for past crimes in several judgments.

37. In its ruling on a monument dedicated to the victims of the Peruvian civil war, the Court stipulated that Peru "must guarantee, within a one-year period, that all persons declared as deceased in the present Judgment are represented in the monument called The Eye that Cries".[17] Similarly, the verdict of the Court on the killing of 19 traders in Colombia stated the need for the State to proceed with the construction of a memorial.[18] In its judgment on the Rio Negro massacre in Guatemala, the Court requested the establishment of a museum to honour the victims of the internal armed conflict.[19]

38. Thus, courts may also see their role as memorial facilitators and national authorities may see their approach contested by new actors actively engaged in shaping the memorial landscape.

D. Recommendations of truth and reconciliation commissions

39. An exhaustive list of all truth and reconciliation commissions that have advocated the construction of memorials is beyond the scope of this document. Nevertheless, one should mention the recommendations of the truth and reconciliation commissions in El Salvador, Germany, Guatemala, Peru, Morocco and South Africa and the commission of inquiry in Chad, even though not all their recommendations were implemented.

40. The Commission on the Truth for El Salvador clearly called in its report for the construction of a national monument in El Salvador bearing the names of all victims of the conflict, recognition of their good name and the serious crimes of which they were the victims and the institution of a national holiday in memory of the victims of conflict as a symbol of reconciliation (S/25500, p. 186).

41. Similarly, the Commission for Historical Clarification in Guatemala recommended, among other things, that monuments and parks be constructed and the names of victims assigned to public buildings and highways in memory of the victims.[20] The Commission stated that "the historical memory, both individual and collective, forms the basis of national identity. Remembrance of the victims is a fundamental aspect of this historical memory and permits the recovery of the values of, and the validity of the struggle for, human dignity." Specific attention was drawn to the need to take into consideration the multicultural nature of the Guatemalan nation and to promote and authorize the raising of monuments and the creation of communal cemeteries in accordance with the forms of Mayan collective memory.

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[17] *Miguel Castro-Castro Prison* v. *Peru*, judgment of 25 November 2006, para. 463.

[18] *19 comerciantes* v. *Colombia*, judgment of 5 July 2004, para. 273.

[19] *Masacres de Rio Negro* v. *Guatemala*, judgment of 4 September 2012, paras. 279 and 280.

[20] Report of the Commission for Historial Clarification, conclusions and recommendations, p. 49, available from https://hrdag.org/wp-content/uploads/2013/01/CEHreport-english.pdf.

42. Departing from the norm of physical monuments, some commissions have sponsored artistic events. For example, the commissions in Peru and Timor-Leste organized photo and poster exhibitions.[21]

43. Many commissions have recommended transforming places of detention into places of memory or, alternatively, called for the construction of memorials. However, national authorities have not always complied with such recommendations. For example, one of the first commissions of inquiry in Africa, in Chad from 1990 to 1992, called for the building of a memorial to the victims of repression under Hissène Habré and required that the second Sunday of December be declared a day of prayer and contemplation for those victims. It also recommended that the former headquarters of the *Direction de la Documentation et de la Sécurité* (the political police) be transformed by making the underground prison into a museum to remember the dark reign.[22] In Morocco, the Equity and Reconciliation Commission in its final report recommended the transformation of the old centres of illegal confinement or detention into productive projects, able to preserve memory.[23]

44. Recommendations by truth and reconciliation commissions are important landmarks, helping civil society organizations to keep memorial issues on the agenda. Those recommendations often limit the choice of action by a Government, which might otherwise be tempted to destroy places of suffering and, in doing so, erase the memories attached to it.

E. The cultural rights angle

45. Civil and political rights are the human rights mostly referred to in the development of transitional justice policies and memorialization processes. This may be due to the fact that the violations mostly invoked through memorial practices relate to the right to life, physical integrity and liberty. Memorialization processes also involve exercising the rights to freedom of opinion and expression, religion and belief, peaceful assembly and association (articles 18 to 22 of the International Covenant on Civil and Political Rights).

46. Such a distinction between categories of rights is always misleading, however. Gross violations of human rights during conflicts include violations of economic, social and cultural rights. The particular targeting of schools, cultural institutions, cultural symbols and cultural heritage during wartime is to be recalled. Moreover, insofar as the broader and cultural norms also play a role in enabling systematic violations of human rights, their role must also be addressed.[24]

47. Actions in the field of culture have an unparalleled potential to contribute significantly to transitional processes precisely by enabling spaces where identities can be tried out, including the identity of a rights claimant.[25] Cultural interventions help to make the victims visible by providing safe spaces for articulating their experiences.[26] Memories are subjective processes anchored in experiences and the material and symbolic markers of

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[21] Pablo de Greiff, "On making the invisible visible".

[22] See Mahamat Hassan Abakar, *Chronique d'une enquête criminelle nationale. Le cas du régime de Hissène Habré, 1982–1990*, (Paris, L'Harmattan, 2006), p. 110-111.

[23] Equity and Reconciliation Commission, final report, *Truth, Equity and Reconciliation*, vol. ., see for instance pp. 92 and 99, available from http://www.ccdh.org.ma/IMG/pdf/rapport_ang_1.pdf.

[24] Bickford, "Memoryworks/memory works".

[25] Ibid.

[26] Pablo de Greiff, "On making the invisible visible".

specific cultural interpretative frameworks.[27] Hence, actions in the cultural sphere facilitate cultural interaction and understanding and can help design new cultural landscapes, encompassing and reflective of the plurality of culturally diverse perspectives.

48. Transitional justice strategies and reconciliation policies in divided societies should therefore not ignore cultural rights, as enshrined in article 15 of the International Covenant on Economic, Social and Cultural Rights. All persons have the right to access, participate in, enjoy and contribute to culture, and in particular cultural heritage, which encompasses both history and memory (see A/HRC/17/38, paras. 5 and 8). Artists should be able to articulate their voices; the right to freedom of artistic expression and creativity must be fully respected and protected (see A/HRC/23/34). More widely, cultural rights call for the implementation of policies promoting cultural interaction and understanding between people and communities, the sharing of perspectives about the past and the design of a cultural landscape that is reflective of cultural diversity.

IV. Memorialization practices: specific challenges

49. Governments play a key role in framing the perception of the past. Unfortunately, too frequently they initiate top-down projects resulting in the imposition of unilateral or partial visions of history.

A. Victims, perpetrators and heroes

50. Following conflict, the definition of victims and perpetrators is a major political and symbolic issue. Because memorialization is the site of conflicting narratives, it is important to guard against black and white definitions of victims and perpetrators. There are often dissenting voices within groups of victims, especially when groups of victims also killed each other. In addition, perpetrators tend to be somewhat invisible or at least minimally defined on many sites.[28] Moreover, when invited into the discussion, perpetrators too adopt the position of a victim.

51. The debate concerning The Eye that Cries monument in Lima, which lists the names of victims of the civil war, is emblematic. The question arose as to whether 41 jailed members of the Shining Path, considered by a significant part of the population to be terrorists, who were killed in the repression of a prison riot, could be classified as victims. The controversy was intense. The Inter-American Court of Human Rights considered that, in accordance with international human rights law, those killed extrajudicially, including criminals, should be considered victims. Ironically, the 41 names had already been included on the monument, but no one took any notice before the ruling of the Court. Sharply polarized opinions regarding whose names should be included halted the completion of the monument.

52. Some memorialization processes do promote a plurality of narratives within the same monument or history museum. For instance, the Museum of Medellin in Colombia, which is nearing completion, aims to present a history of massive violations of human rights, regardless of which groups perpetrators belonged to: guerrillas, paramilitaries, drug traffickers or the army.

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[27] International Coalition of Sites of Conscience, "From memory to action, a toolkit for memorialization in post-conflict societies", p. 3.

[28] Bickford, "Memoryworks/memory works".

53. Memorialization processes that only identify one group as victims while obliterating serious crimes committed against other parties in the conflict are of concern. When, for example, after a civil war memorials are erected that are devoted to the victims of one ethnic group without consideration for others, this may heighten sectarian tensions, fuel an "ethnicization" of the victims and lead to further violence. In the most acute cases, when memorials bear symbols exclusively associated with one community, be it ethnic, religious, linguistic or political, they delimit communities, drawing boundaries between people, including by marking territorial borders within and between States. Such delimitations impact the freedom of movement of people who may feel uncomfortable in a specific cultural and symbolic landscape. Consequently, memorials can contribute to continuing ethnic cleansing started during the war.

54. Memorialization processes are emancipatory only when all sides, the political sequences and consequences of events are remembered and when the community and especially key stakeholders are able to have a voice in crafting the development of transitional justice strategies.[29] It is crucial to open safe public spaces that allow the participation of all in the discussion and ensure the credibility of the process, as well as its ownership by people: in the end, it is the process itself, i.e. the conversation about the past, more than the end result, be it a monument or a performance, that is most beneficial.

55. One imperative is to avoid a flattening of all situations, which is conducive to denying past wrongs. There are often various circles of victims and there is not necessarily a moral and political equivalence between the conflicting parties.[30] Moreover, one cannot always insert the viewpoint of the perpetrators within the narratives of the victims.

56. Tragedies also produce heroic figures who become subjects of memorialization. In the 1950s, the Yad Vashem memorial in Israel was the first dedicated space recognizing people who risked their own life to save people from persecution. Thereafter, similar initiatives were undertaken in other countries (Armenia, Burundi, Rwanda and the former Yugoslavia). In relation to the war in Bosnia and Herzegovina, shedding light on such people and their actions operates a shift in the memorialization process, helping to counter the belief that people's actions are predetermined by national or ethnic affiliations: communities are never the monoliths the conflict tries to establish. Solidarity, not only violence, occurs during war. Such recognition carries moral and educational meaning, demonstrating that, despite risks, choice, disobedience and resistance are possible paths.[31]

B. The issue of temporality

57. When should memorialization processes start and for how long should they continue? Memorialization may seem to start too soon, just after or even during a conflict, not allowing the process of reflection to come to maturity, but the absence of memorialization may be a cause of further suffering for victims and their families. In any event, when State authorities are unwilling to initiate memorialization processes, such processes do nonetheless commence, initiated by civil society or victims, but also by conflicting parties. State authorities, therefore, have no choice but to step in.

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[29] Clara Ramírez-Barat, "Transitional justice and the public sphere", in *Transitional Justice, Culture and Society: Beyond Outreach*.

[30] See Olivier de Frouville, "Le droit de l'homme à la vérité en droit international: à propos de quelques 'considérations inactuelles'", in *La vérité*, Olivier Guerrier, ed. (Saint-Etienne, France, Université de Saint-Etienne, 2013) pp. 129-151.

[31] Svetlana Broz, *Good People in an Evil Time* (New York, Other Press, 2005).

58. In numerous instances, new inscriptions keep being added to the same memorial, interposing layers of stories and complexity.

C. "Illegal" memorials

59. Various groups, including families of victims, often create their own memorials, especially in the absence of initiatives by State authorities. Quicker to establish their memorials, these groups may act outside the law. In response, other communities may then create alternative memorials with other narratives. For example, communities in Northern Ireland use murals to express divergent perspectives of the Troubles. Such situations can be seen as fuelling tensions between communities, or as the medium for people to express their voices through non-violent means, raising the question of how this can be regulated.

60. In some instances, unauthorized monuments are tolerated by the authorities and society, either because the initiative is seen as a positive step or because removing a memorial may exacerbate tensions between communities. The risk is that such memorials may become cultural and political symbols that, rather than help reconciliation, intensify divisions which are sometimes imposed on local inhabitants in their own neighbourhoods, including inside or in front of schools. Furthermore, such processes tend to use symbols and memory to depict or refer to communities as monoliths.[32]

D. Monuments and sites of past oppressive regimes

61. Authoritarian and totalitarian regimes control memory not only for propaganda purposes but also as a tool to homogenize society in all aspects of life: this provides a strong argument for considering people's access to a pluralistic memory as a human right.

62. The question is how to manage an architectural legacy with strong symbolic connotations when oppressive regimes collapse. Should a new democratic Government destroy, conserve or transform these legacies? Answers vary from situation to situation, frequently giving rise to intense controversy, including amongst victims. Striking examples include debates in Spain over the memorial in *Valle de los caidos* (the Valley of the Fallen) where Franco is buried, in Bulgaria over the mausoleum of former communist leader Georgy Dimitrov, which was finally destroyed, and in Germany over Hitler's bunker, now located beneath a parking lot in the centre of Berlin, marked only by a small sign.

63. The choice to conserve, transform or destroy always carries meaning and so needs to be discussed, framed and interpreted. For example, the destruction and transformation of such monuments may be interpreted as a willingness to erase one part of history or a specific narrative.

E. Promoting critical thinking and civic engagement

64. As part of the symbolic-cultural landscape, memorials impact on people's perspectives and understanding of past events but equally of contemporary issues. Hence, they must be critically assessed. This is particularly important when people, including children, live under the shadow of numerous, repetitive images and symbols, such as murals and statues. Developing partnerships with artists may be particularly beneficial, as

[32] Beatrice White, "The significance of murals in the Northern Ireland conflict", in *Walking the Tightrope: Europe between Europeanisation and Globalisation*, Janny de Jong, Ine Megens and Margriet van der Waal, eds. (Groningen, Netherlands, University of Groningen, 2011), p. 307.

artists are often able to introduce elements that spark discussions; educators are also key stakeholders. Positive processes of memorialization encourage critical thinking around history and in a variety of contexts, memorials can use creative ways to catalyse this civic engagement by opening new opportunities for dialogue about threats to human rights and what people can do to address them.[33]

65. In several countries, secret places of torture have been converted into public places embodying the aspirations for justice and democracy that provide people with opportunities to exercise their own critical thinking and revisit the accepted interpretation of the past. For example, in Italy, the Monte Sole Peace School was built on the site where SS troops killed 770 civilians. The school invites young people from conflict-affected societies to gather and reflect on the past in order to prevent further atrocities.[34] The role of the State is to ensure that sites of atrocities become sites of knowledge; too often, however, such sites are closed to the public, or destroyed along with the evidence documenting the atrocities.

F. The role of artists

66. The form of a monument is a crucial factor in determining its social impact and many artists have worked on the conjunction of aesthetics and ideology.[35] Hence, artists, especially those commissioned to work on monuments, may be significant actors in memorialization processes. Their capacity to shed new light on the past and to enhance the ability of people to "imagine" the other enables artists to play a crucial role in memorialization processes.[36] Focusing on "concrete others", artistic expressions can make victims visible: "they can raise awareness of the depth, breadth and effects of rights violations in a way that other forms of communication can hardly aspire to, including not only cold statistical data but also official truth commission reports."[37]

67. Involving artists offers opportunities to widen the debate regarding the meaning, and hence all other aspects, of a memorial. For example, the anti-monument movement was a radical attempt by some artists to deal with the issue of representing mass human right violations after 1945. Seeking a form opposed to the monumental architecture of the fascist regimes, one emblematic realization was the anti-fascist monument near Hamburg by Jochen and Esther Gerz. Built in 1986, this 12 metre-high column was designed to gradually sink into the ground as visitors signed their names or embellished it with graffiti. Finally buried in 1993, the column was intended to convey a simple message: only people – not memorials – can resist the resurgence of fascism.

68. Some artists find it difficult to engage in commissioned art for memorials because they seek to build memorials from the viewpoint of the subjugated, not those in power. Their dilemma is whether to negotiate with State authorities over the meaning and form of a specific memorial, or simply use public space to counter an official or dominant narrative. Today, many memorials draw on avant-garde notions of the role of art and the artist in

[33] Sebastian Brett and others, *Memorialization and Democracy: State Policy and Civic Action*, p. 7.

[34] Ibid.

[35] See Chiara Bertini, Janis Schroeder et Roxane Bovet, "Avez-vous déjà remarqué l'Immigré?", *Genève, Les monuments de la discorde*, 12–26 February 2013, available from http://head.hesge.ch/ccc/wp-content/uploads/2013/10/pimpa_article_etudiants02_supplement_HEAD.pdf.

[36] Amos Oz, *How to cure a fanatic* (London, Vintage Books, 2012).

[37] Pablo de Greiff, "On making the invisible visible: the role of cultural interventions in transitional justice processes".

challenging authority, such as the authority of official history.[38] In doing so, they contribute greatly to the promotion of critical thinking and civic engagement.

69. Interesting experiences include those of artists questioning public calls for memorials on specific events and the ideologies these carry, thereby opening space for public debate and empowering victims. For example, the Monument Group, led by artist Milica Tomić, initiated a public discussion after the city of Belgrade launched a competition in 2002 for a memorial to the fallen fighters and victims of the 1990–1999 wars in the territory of former Yugoslavia, which led to the City cancelling the competition. Continuing its discussions, the Group declared that each public event and discussion on past events was in itself a monument. Discussions involving artists, professional experts and students, but also victims and associations, succeeded in opening avenues for victims to express themselves and create their own performances and commemorations, for example in Omarska. Victims thus became the primary actors in constructing their own memorial.

70. Artists too have diverging perspectives of the past and may reinforce the dominance of one narrative, incessantly reiterated through theatre, poetry, film and painting. Such artistic creations can be used to support the belief systems of those who maintain the barriers of difference in societies emerging from conflict. This makes it vital for cultural workers to be engaged in critically analysing the information that exists and to develop meaningful collaborations and relationships with historians and academics so as to challenge and develop the story beyond the confines of a single narrative.

71. Interesting initiatives undertaken in this respect include, for example, a series of walks across the border between Northern Ireland and the Republic of Ireland, involving meetings among artists, schools and community groups, culminating with the artists inviting the public to rewrite the narrative and re-present this as publications, performances or exhibitions. Attention is focused on memorial sites and cultural venues, with a view to reclaiming them for pedagogical purposes – in essence a critical pedagogy of memorial and remembrance. Another initative is a plan to produce a major new mural in Belfast to commemorate the First World War, with a view to opening a critical dialogue with the past that will challenge existing positions and narratives.

72. For such initiatives to emerge, the right of each person to the freedom of artistic expression and creativity must be respected and protected, in accordance with international standards (A/HRC/23/34). With regard to displaying artistic expressions in the public space, the State has a specific role in ensuring that space is made available for a plurality of narratives and multiplying opportunities for such narratives to engage with each other. Promoting the notion that the public sphere has to be inclusive, egalitarian and guided by issues that revolve around the common good, rather than the promotion of particular interests, helps to identify the conditions necessary to ensure that a democratic debate takes place amongst citizens.[39]

73. While the commissioning of a monument implies a dialogue between politicians and artists, it is important to widen such a debate to include the communities concerned and society at large, including those living near monuments and memorials. The message conveyed by the artist should also be explained and introduced to the population.

[38] Bickford, "Memoryworks/memory works", pp. 499 and 500.

[39] Clara Ramírez-Barat, "Transitional justice and the public sphere".

G. Museums of history/memory

74. As they are able to recreate displays and exhibits from a collection of items that can be reinterpreted, museums of history/memory have greater flexibility for addressing the complexities of narratives and for integrating various perspectives.

75. Museum collections are the result of selections. As most museums are perceived to speak with an authoritative voice, they too may be used to promote political agendas or to defend community interests through the presentation of a particular narrative. A positive development is that more exhibitions today are authored and personalized, stressing that the curator's narrative is a viewpoint rather than an objective truth. Museums and curators may face particular difficulties when they are subject to political control and financial pressure and it is crucial to ensure their independence within the framework of the right to freedom of opinion and expression, as set out in articles 19 and 20 of the International Covenant on Civil and Political Rights.

76. The manner in which museums refer to the past varies significantly. While history museums are expected to address the past, following the deontology of their academic discipline, putting events and people into a wider perspective and context, memory museums are expected to focus on celebrating events and paying tribute to people, including victims. No clear-cut distinction seems possible however, and history/memory museums and memorials have become more and more intertwined. One trend is to create museums and documentation centres near memorials to provide additional information on the context and/or more space for victims to express their own perspective or exhibit specific (personal) items. All such initiatives usefully contribute to providing a plurality of complementary viewpoints on the past.

77. Some curators see their work as curating stories for the people themselves concerned, who participate in the design of exhibitions. Allowing those concerned to participate in historical research and writing is to be welcomed and promoted. The collection by peace museums of testimonies and items from people who felt uncomfortable testifying before a truth and reconciliation commission is one example of how museums can facilitate the emergence of additional stories.

78. One difficulty is when museums emphasize trauma as a perspective on world events, resorting to personalization, psychologizing and emotion. The haze of emotionality through which individual stories are filtered makes it difficult to understand the larger political context.

79. A specific issue needing attention is when, to evoke deeper emotions, the authenticity of exhibits has been jeopardized. For example, in one case, it has been reported that a false floor was fabricated underneath hundreds of victims' shoes to leave a greater impression. For its part, the authenticity of the famous door of no return of Gorée Island, Senegal, presented as the door through which slaves would walk to be boarded on ships, is disputed by historians.

H. Managing the remains

80. After the killing of more than 8,000 Muslims in Srebrenica in July 1995, the international community made a major effort to develop techniques of DNA identification of bodies. Today, the remains of more than 70 per cent of the thousands missing in the wars of the former Yugoslavia have been identified and returned to their families. However, in many countries, where a large number of people have died in wars or internal conflicts, sometimes decades ago, applying such cutting edge techniques is financially or otherwise unfeasible. Consequently the default policy has been to do nothing.

81. The issue cannot always be ignored, however, as mass graves continue to be found, for example when constructing new roads or buildings. Authorities are torn between the imperative of development and the building of a memorial, the respect due to the dead, the obligation to treat the place as a crime scene and the need to search for the perpetrators (or the fear of seeing them publicly identified should they hold public office). In some instances, the families of missing people themselves reject proposals for the construction of memorials, fearing that this may serve as an excuse not to open the mass graves. Adamantly opposed to their demands for exhumation being buried beneath some symbolic concrete, they consistently demand the physical return of the remains of their loved ones.

82. Ethical issues also arise when remains are exhibited in museums.

I. Memorialization of slave trades

83. One of the most important and sensitive examples of memorialization concerns the centuries-long African slave trade.

84. Most societies, especially in Western countries, have started to grasp the magnitude of the tragedy of the transatlantic slave trade, in which they had the main share of responsibility. Of note are the International Slavery Museum in Liverpool, United Kingdom and in France, the *Mémorial pour l'abolition de l'esclavage* in Nantes and the Schœlcher Museum in Guadeloupe, in addition to a number of museums in the United States of America. Many historians have been researching this topic and in the last 30 years it has become embodied in different memorials, in particular along the coastline of West Africa, such as the one on Gorée Island.

85. At the same time, it seems that there is no monument in Africa recalling the fate of the captives enslaved for the intra-Africa slave trade, or the trans-Saharan and eastern slave routes. Some African historians have denounced this reading of events, where the logic of victimhood absolves local actors and ignores the mechanisms of domination, power and exploitation within African societies.[40]

J. Memorializing the histories of indigenous peoples

86. Indigenous peoples are amongst those engaging their respective Governments to establish memorials of past genocides and/or to acknowledge their histories and contributions to societies.

87. Some countries have adopted positive steps. Memorials have been established in recognition of the contributions of ancestors, or the ancestors of part of the population, which suffered greatly, for example in Saint Vincent and the Grenadines (A/HRC/23/34/Add.2, para. 29).

88. Many museums, in particular history museums, recall the culture, past suffering and continuing presence of indigenous peoples. This is the case of the Museum of New Zealand Te Papa Tongarewa, where curators consciously seek to be facilitators of memory rather than repositories of memorabilia, allowing memorialization processes to take place, including through cultural expressions and spiritual rituals. This presents its own

[40] Ibrahima Thioub, "Regard critique sur les lectures africaines de l'esclavage et de la traite atlantique", in *L'esclavage et ses traites en Afrique, discours mémoriels et savoir interdits*, revue du Département d'histoire et de géographie de la Faculté des sciences et technologies de l'education et de la formation, Université Cheikh Anta Diop de Dakar, No. 8, 1er semestre 2009, p. 26.

challenges, since communities themselves are never monoliths. It is therefore essential to diversify the platforms and spaces for the many voices of history to be heard.

89. Recognition through memorials of the participation of indigenous soldiers during the two World Wars continues to be debated, especially in North America. In Canada, a memorial to indigenous veterans from the First World War was built at the request of indigenous peoples, integrating many elements of indigenous cultures. This recognition took place at a later stage in history, however, and in a different venue to the main memorial established for other Canadian soldiers. Commemoration projects are also taking place in Canada regarding the history of Indian residential schools.

K. The role of external actors

90. External actors can play an important role in memorialization. Most often, interventions stimulate memorial initiatives, seeking to bring about social changes through a deliberate strategy of utilizing and funding memorials, in particular when the State concerned lacks either the political will or financial power to do so. For instance, the Srebrenica-Potocari Memorial was financed through private and governmental funds, including from the United States of America. In the Middle East, the initiators of the art gallery, Um-el-Fahm, who want to convert this space into the first Palestinian museum in Israel, partly depend on donors in Europe and the United States. On a visit to Peru in 2008, German Chancellor Angela Merkel offered $2 million for a museum of memory there.

91. The role of external actors in shaping memorial landscape has been transformed by the use of information technology. The Internet has led to the internationalization of memory processes, an evolution epitomized by the memorialization of the Gulag.[41]

92. These examples demonstrate the proliferation of memorial entrepreneurs. The previous system of State-sanctioned, top-down memorials now competes with non-State local and international initiatives. This internationalization of the memory process can lead to very different results, ranging from a vision of history imported, or even imposed, by powerful outside actors, to initiatives which truly help marginalized groups to articulate their history.

L. The recipients of memorial initiatives

93. New forms of tourism have developed in places of suffering and a large number of tourists visit, for example, the concentration and extermination camps in Germany and Poland, places directly related to atrocities committed by the Khmer Rouge in Cambodia, Gorée Island in Senegal, Robben Island in South Africa, the International Red Cross and Red Crescent Museum in Switzerland and the National September 11 Memorial in the United States.

94. Visits to these sites of conscience and memorials raise several questions. Who are they intended for? For students? For victims and their family? For society at large? For tourists? Usually, they are directed at the widest audience possible, with certain groups accorded priority: the victims and their families, the communities directly affected and youth.

95. The key issue is the ownership of the memorial and/or the museum by the communities concerned, including especially those in which they are located. The South

[41] See, for example, gulagmuseum.org, gulaghistory.org and http://museum.gulagmemories.eu/en.

African Truth and Reconciliation Commission rightly stressed that the victims and society are not only recipients but also active agents in the process of memorialization: "Symbolic reparations such as monuments and museums are important, but should ideally be linked with endeavours that improve the everyday lives of the victims and their communities. One way of combining the two aims is to involve victims prominent in the design and/or manufacture of monuments...".[42]

96. The decision-making process is as important as the memorial itself. The memorialization process, even before the concrete realization of the work, is a decisive step in generating a feeling of community ownership. The Museum of Memory in Rosario, Argentina, is a positive example of how to include different groups and keep the museum relevant through time.[43] The museum includes an archive centre and a library that connects the site and people with the local memory of repression and with a broader reading of the crimes of States. According to the director, the goal of the museum is to "create historical consciousness", which also allows for the evolution of the themes of the museum towards contemporary concerns regarding respect for human rights. Similarly, soon to be opened is the Canadian Museum for Human Rights in Winnipeg, Manitoba.

97. Of crucial importance is empowering victims. This means promoting their recognition not only as victims but as full actors of their rehabilitation and important contributors to wider societal actions to overcome the tragedies of past events. All too frequently, once their testimonies have been gathered, victims receive no feedback on decisions taken and are left within their victim status, rather than being empowered through actively participating in establishing the memorial.

V. Conclusions and recommendations

98. **Victims of tragic events or mass or grave violations of human rights often call for justice and for a form of memorialization: both are necessary and complementary, one cannot replace the other. However, while the legal aspect of reparations has attracted considerable interest, memorialization is rarely integrated into broader strategies for building democracy and post-conflict transitional strategies.**

99. **Memorial dynamics are always political processes. Memorializing the past evolves within particular political, social and cultural contexts and is modulated by different political forces, the weight of lobbies, the evolving concerns of society and the interests of key stakeholders. Some monuments are met with indifference, others become places of crystallized emotions and tension and some are removed as a tangible sign of a new era. The principle questions to be asked and debated in the public sphere each time are: what are the specific intended goals of the memorial? Who is it made for? What will be its likely sociopolitical impact? Who participates in its establishment, including in the design, execution and stewardship? Does it include plurality of narratives?**

100. **An essential element for successful memorialization is collaboration between the authorities, citizens and civil society, especially representatives of those directly affected by past events. Authorities have a key role to play: they have the responsibility of managing the public space and the capacity to maintain monuments**

[42] Truth and Reconciliation Commission, South Africa, final report, vol. 6, section 2, chapter 6, para. 4, available from http://www.justice.gov.za/trc/report/index.htm.

[43] Sophie Chapuis, "Mémorial: un objet culturel non identifié", research paper presented at the University of Art and Design, Geneva, 2011.

and museums and develop national strategies across a territory and over the long term, taking into consideration a wide array of narratives. Civil society has the capacity to mobilize groups of population, grant popular legitimacy, organize events and generate public debates.

101. The complementarity of the various actors is often difficult to put into practice, however. The authorities may be tempted to obtain short-term political gains by building monuments that will have little discursive impact for society as a whole, but will "close the book" – or so it is hoped. Victims and memorial entrepreneurs from civil society may disagree among themselves as to who and what to commemorate. The dangers are manifold, but the synergy between different actors is essential for fostering a broad debate on the representation of the past and related democratic issues and crucial for effective long-term reconciliation. Memorialization as a contribution to guarantees of non-recurrence demands that the past inform the present and facilitate the understanding of contemporary issues relating to democracy, human rights and equality.

102. Memorial practices concerning mass crimes involve a complex equilibrium between the personal emotions arising from evocations of the past and a removed historical narrative that can potentially enable reflection about resistance and civil disobedience. However difficult, the cohabitation between the emotional dimension and a distanced analysis is indispensable. Without emotional charge, the account of tragic events has little impact; without perspective, the risk is great of cultivating a victimized memory that loses sight of the need to prevent further violence. To reach such equilibrium, memorial practices, while giving space to the emotional dimension, must be informed and framed by rigorous historical research and study.

103. The Special Rapporteur recommends that States and other stakeholders support victims and families of victims of mass or grave human rights violations, or traumatic events, seeking to commemorate the past. Memorialization should be understood as processes that provide the necessary space for those affected to articulate their diverse narratives in culturally meaningful ways. Such processes encompass a variety of engagements which do not necessarily become concretized through the erection of physical monuments, but can also take the form of numerous activities and cultural expressions.

104. Goals assigned to memorials should be debated and decided upon on a case-by-case basis. States and other stakeholders should refrain from using memorialization processes to further their own political agendas and ensure that memorial policies contribute to, in particular:

(a) Overcoming denials that fuel hatred, resentment and violence;

(b) Providing symbolic reparation and public recognition to the victims in ways that respond to the needs of all victims oppressed in a recent or distant past and contribute to their healing;

(c) The development of reconciliation policies between groups that were opposed during conflicts, through a process of official and public recognition of crimes committed;

(d) A policy of prevention through pedagogical action and cultural interventions to reduce the risk of further violence between groups opposed in the past;

(e) Redefining national identity by a policy of pluralism that acknowledges different communities and recognizes the crimes committed by all parties;

(f) **Promoting civic engagement, critical thinking and stimulating discussions on the representation of the past, as well as contemporary challenges of exclusion and violence.**

105. **In this endeavour, States and other stakeholders should be cautious of watertight definitions between victims and perpetrators and ensure sufficient space for various narratives and perspectives to be expressed. However, they should neither engage in nor support policies of denial that prevent the construction of memorials or memorialization processes, nor should they build, support or finance works that may incite violence.**

106. **States and relevant stakeholders should:**

(a) **Implement the memorial recommendations made by truth and reconciliation commissions, in accordance with international standards, provide technical expertise to national authorities when needed and include interested groups in discussions;**

(b) **Ensure the transparency of memorialization processes and promote civil society participation at all stages, including in the decision-making process leading to the memorials. Memorialization processes should be centred on the victims and designed to empower them;**

(c) **Promote critical thinking on past events by ensuring that memorialization processes are complemented by measures fostering historical awareness and support the implementation and outreach of high-quality research projects, cultural interventions that encourage people's direct engagement and educational initiatives;**

(d) **Respect the freedom of opinion and expression of curators and refrain from imposing political control and putting financial pressure on them;**

(e) **Respect the right to freedom of artistic expression and creativity in addressing memorialization issues and collaborate with artists. States should ensure the availability of public spaces for a diversity of narratives conveyed in artistic expressions and multiply opportunities for such narratives to engage with each other;**

(f) **Encourage the memorialization of those who refused to participate in mass or grave violations of human rights, resisted oppression and helped each other across community divides;**

(g) **Take into consideration the cultural dimension of memorial processes, including when repression has targeted indigenous peoples;**

(h) **Address the need for memorialization for the victims of slavery, especially in places where they were taken captive and in places of destination;**

(i) **Carefully weigh interventions by external actors to avoid the imposition of an external memory, while encouraging carefully planned interventions that can help groups emerge from vulnerability and acknowledge the wrongs of the past;**

(j) **Map the country's memorial landscape, adopting a collaborative approach with civil society, critically assess how past events and past oppressive regimes are remembered, inform the public about the symbolic**

places built by regimes responsible for serious human rights abuses and engage people, in particular youth, in constructing new narratives of peace;

(k) Judiciously consider the cultural and symbolic landscape being built or reconstructed following conflict, to ensure that it is reflective of the various aspirations and perspectives of people and enables critical thinking, historical awareness and mutual understanding between communities.

107. **The Special Rapporteur recommends that States adopt legislation setting out guidelines regarding memorialization processes, in accordance with international standards and taking into consideration the conclusion and recommendations above.**

108. **States and other stakeholders should provide information to relevant mechanisms, including the Special Rapporteur in the field of cultural rights, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, as well as treaty bodies, about the challenges and steps achieved through memorialization practices.**

109. **The Special Rapporteur also recommends that a compendium be prepared on good memorialization practices, highlighting difficulties encountered and results achieved.**

Annex

[English only]

List of participants in the expert meeting (Geneva, 7 and 8 October 2013)

Name	*Affiliation*
Mélanie Borès	Research Assistant, "PIMPA" project (politics of memory and art practices: the role of art in peace and reconstruction processes), Geneva University of Art and Design, Switzerland
Cécile Boss	Research Assistant, "PIMPA" project, Geneva University of Art and Design
Puawai Cairns	Curator Māori Contemporary Culture at the Museum of New Zealand Te Papa Tongarewa
Ereshnee Naidu	Program Director for Africa, Asia, the Middle East and North Africa, International Coalition of Sites of Conscience, United States of America
Pierre Hazan	Co-Director, "PIMPA" project, Geneva University of Art and Design
Victor Ochen	Director, African Youth Initiative Network, Uganda
Denis Pernet	Associate Researcher and curator, "PIMPA" project, Geneva University of Art and Design
Dominique Poulot	Director, École doctorale d'histoire de l'art, Université Paris 1 Panthéon-Sorbonne, France
Sylvie Ramel	Associate Researcher, "PIMPA" project, Geneva University of Art and Design
Fernando Sanchez Castillo	Artist, Spain.
Martin R. Schärer	Museologist, President of the Ethics Committee of the International Council of Museums, Switzerland
Yan Schubert	Associate Researcher, "PIMPA" project, Geneva University of Art and Design
Tomislav Sola	Professor, , Department of Information and Communication Sciences, Faculty of Humanities and Social Sciences, University of Zagreb, Croatia
Milica Tomic	Artist, Serbia
Paul Williams	Senior Interpretive Planner, Ralph Appelbaum Associates, United States of America